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17 UNITED STATES DISTRICT COURT  
18  
19 NORTHERN DISTRICT OF CALIFORNIA  
20  
21 SAN FRANCISCO DIVISION

22 In re FACEBOOK BIOMETRIC  
23 INFORMATION PRIVACY LITIGATION

24 This Document Relates To:

25 ALL ACTIONS.

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) Master File No. 3:15-cv-03747-JD

) CLASS ACTION

) SECOND JOINT REPORT REGARDING  
) PROGRESS OF NOTICE

1 Pursuant to the Court's Order Granting Preliminary Approval of Class Action Settlement  
2 at 7 (ECF No. 474) ("Preliminary Approval Order"), Plaintiffs Nimesh Patel, Adam Penzen, and  
3 Carlo Licata (collectively, "Plaintiffs") and Defendant Facebook, Inc. ("Facebook") (collectively,  
4 the "Parties"), respectfully submit this Second Joint Report Regarding Progress of Notice ("Joint  
5 Report") and state as follows:

6 Gilardi & Co. LLC ("Gilardi"), the Court-appointed Settlement Administrator, has  
7 received the Class List from Facebook and is preparing the data required to send the email notice  
8 to the Class. That preparation includes de-duplicating the data and performing an "email cleanse,"  
9 which will confirm the emails on the list are valid addresses while reducing deliverability issues.  
10 In addition, for several records in the Class List, the data contained multiple distinct email  
11 addresses associated with the same record. For instance, a Class member may have provided  
12 Facebook with a personal Gmail email address, a Yahoo! email, an educational email from school,  
13 and a work email address. Because it is not known which email address(es) a Facebook user checks  
14 with regularity, the Parties have agreed to send email notice to all of the email addresses contained  
15 in the database (except those that are "cleansed" per above). The Parties believe that the resulting  
16 increased likelihood of email notice appearing in an inbox that a Class member checks regularly  
17 far outweighs the minimal downside of sending duplicate emails to Class members who actively  
18 use multiple addresses. Gilardi remains on target to comply with the Preliminary Approval Order  
19 to provide direct email notice to the Class by September 23, 2020.

20 The Parties have also finally confirmed with Gilardi the format and content of the email  
21 notice, the printed publication notice, the settlement website, and the banner ads. With that  
22 confirmation, Gilardi purchased the media component of the notice plan, including a Wednesday,  
23 September 23 one-eighth page ad in the classified section of the *Chicago Tribune*, a one-quarter  
24 page ad in the main news section of the *Chicago Sun-Times* on the same day, and a Google Display  
25 Network internet banner ad campaign that will run from September 23 to October 23.

26 Class Counsel has also conferred with Professor Dan Ariely, the Duke University  
27 behavioral economist that was referenced during the preliminary approval hearing. In those  
28 discussions, Professor Ariely noted what he called consumers' "no-action bias." which is a

1 principle that ordinary people prefer to do nothing over something, so suggesting that class  
2 members do “something” could minimize the risk that class members take no action. To address  
3 this principle, the Parties have worked with Gilardi to implement additions to the flow of the online  
4 claim form.

5 Steps are in process at Facebook regarding the jewel and Newsfeed notice and are on target  
6 to be implemented by the September 23 deadline.

7 The Parties’ next Joint Report is due on September 30, 2020, by which time notice will  
8 have gone out to the class and claims will have started. Depending on the status of notice and the  
9 claims process, and consistent with both the Preliminary Approval Order and the Court’s  
10 statements at the hearing held on July 23, 2020, the Parties anticipate that subsequent Joint Reports  
11 will provide the Court with a status update on some or all of the following:

- 12 1. Facebook’s jewel notifications to the Class;
- 13 2. Facebook’s notice to the Class via Class members’ Facebook newsfeed channel;
- 14 3. Gilardi’s direct email notice;
- 15 4. Gilardi’s notice to the Class via media publication;
- 16 5. Gilardi’s notice to the Class via a targeted ad internet campaign;
- 17 6. Gilardi’s creation of a dedicated website for Class members to obtain information  
18 regarding, among other things, the Settlement and the ability to submit claims online;
- 19 7. Overall notice response rates;
- 20 8. Overall Class member claims rates; and
- 21 9. Any issues Gilardi, Facebook, or Class members encounter relating to notice.

22 The Parties appreciate the Court’s close attention to the Class notice in this case and are of  
23 course prepared to provide any additional information now or in their future Joint Reports, should  
24 the Court require it.

1 DATED: September 16, 2020

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1 CERTIFICATE OF SERVICE

2 I hereby certify that on September 16, 2020, I authorized the electronic filing of the  
3 foregoing with the Clerk of the Court using the CM/ECF system which will send notification of  
4 such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I  
5 hereby certify that I caused to be mailed the foregoing document or paper via the United States  
6 Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

7 I certify under penalty of perjury under the laws of the United States of America that the  
8 foregoing is true and correct. Executed on September 16, 2020.

9  
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19  
20 SIGNATURE ATTESTATION

21 I hereby attest that the content of this document is acceptable to all persons whose  
22 signatures are indicated by a conformed signature (/s/) within this e-filed document.

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